

U.S. Application Serial No. 09/602,727

R E M A R K S

The present amendment is in response to the Official Action dated November 2, 2004, where the Examiner continues to reject pending claims 1-24 and 26-42, based upon the grounds for rejection raised in the previous action, and includes comments responding to the applicant's most recent remarks in the response filed July 8, 2004. In the most recent action, the Examiner has further noted the allowability of claim 25, if the same were to be rewritten in independent form including all of the limitations of the base claim and any intervening claims.

More specifically, the Examiner continues to reject claims 1-24 and 26-42 as being unpatentable over Hyziak et al., U.S. Patent No. 6,125,279 in view of Logsdon et al., U.S. Patent No. 5,890,054, and in the case of claim 2, further in view of Anvekar et al., U.S. Patent No. 6,377,805. However, despite the Examiner's allegations to the contrary, the Examiner continues to misapply the reference to the claims of the present application, where when one examines the alleged support, the relied upon teachings viewed in the proper context fail to supply the necessary teaching.

In the case of each articulated rejection of the claims, Hyziak et al., '279, is commonly relied upon by the Examiner as the base reference as part of a combination of references. With respect to each of the articulated rejections, the Examiner has correctly identified that Hyziak et al., '279, minimally fails to make known or teach selectively assigning one mobile station among the plurality of mobile stations, each of which is capable of receiving radio communications directly from a remote radio (claim 1, 14, 18 and 26). Relative to claims 28 and 29, the Examiner has failed to even allege that the references teach each and every feature of the claims, where the Examiner fails to identify any teaching relative to a "defining a local group of mobile stations in direct radio communication with one or more remote radios of a radio communication system" (claim 28) or "wirelessly communicating among a local group of electronic devices within local communication range of the other electronic devices within the local group and within direct radio communication range of a remote radio" (claim 29).

However, Logsdon et al., '054, does not make up for any of the above noted deficiencies. The applicant has reviewed the Examiner's response to applicant's previous comments and the Examiner appears to be either taking the teachings out of context and/or misapplying the teaching, as the applicant can find no interpretation of the cited section, which supports the

U.S. Application Serial No. 09/602,727

Examiner's position. Namely as noted previously in the previous response, in Logsdon et al., '054, a mobile station is selected to relay messages from a remote radio, only when the mobile station is no longer capable of communicating directly with the remote radio (please see abstract; col. 2, lines 18-19; and col. 3, lines 31-33). Furthermore, as soon as the distressed mobile device is capable of communicating with and registering with a base station, the mobile device terminates its emergency link through the intermediary mobile device (col. 6, lines 20-26). Consequently, contrary to the suggestion of the Examiner, the reference fails to teach or suggest selectively assigning one mobile station among a plurality of mobile, which are each capable of receiving radio communications directly from a remote radio, as a first mobile station for receiving radio communications from the remote radio intended for one or more of the plurality of mobile stations. The Examiner fails to produce any reasonable basis as to why the above noted teachings are not directly relevant.

Instead the Examiner cites a portion of the text in Logsdon et al., '054, at col. 7, line 55 to col. 8, line 6, and then as noted above, misinterprets and/or misapplies the same. More specifically the distressed mobile device 124a, quite clearly can not directly communicate with the remote radio (i.e. base station 108). In fact, step 196 in the cited reference is only performed after a determination is made that the mobile device 124a is not registered 180, and attempts 184 to directly register are unsuccessful 186 (see FIG. 3A), thereby confirming that even the section cited by the Examiner confirms that the distressed mobile device 124a can not currently communicate with the base station 108, and therefore the teaching is inapplicable to the corresponding claims of the present application.

The applicant further notes that when reviewing the teachings of a reference, the Examiner is required to review the teachings as a whole, and therefore cannot arbitrarily ignore the sections of the reference noted by the applicant, which show the reference teaching away from the claims of the present application, without a rational basis for doing so (please see MPEP §2141.02).

Relative to claim 41, the Examiner appears to acknowledge a lack of teaching in any of the cited references of the feature of "not energizing at least some of the circuitry needed for receiving radio communications ...", but then attempts to take Official Notice of the same. The applicant traverses the assertions by the Examiner that the same would be well known, and

U.S. Application Serial No. 09/602,727

requires that the Examiner provide support for the allegations that the same is well known. Furthermore, the applicants note that in attempting to produce support for the Examiner's assertions, the Examiner should focus on a corresponding teaching relative to the feature "not energizing at least some of the circuitry needed for receiving direct radio communications ...".

Relative to claim 21, while Logsdon et al., '054, describes circumstances in which direct communication is no longer possible (due to excessive range, or excessive interference), contrary to the assertions of the examiner, the reference fails to teach or suggest where the direct communication would be selectively disabled. Direct communication which is no longer possible can not be selectively disabled. In responding to the applicant's previous argument, the Examiner alleges support for the feature can be found in Hyziak et al., '279, at col. 5, lines 13-25, but the same does not teach or suggest any selective disablement of direct communication, but alternatively discusses path routing logic, which determines whether the data packet should be received by the local processor, or whether the data packet should be repeated by the mobile unit, none of which relates to the selective disablement of direct communication with a remote radio.

For the above noted reasons, the applicant contends, that the claims are allowable over the prior art of record. Consequently, the applicant would request that the Examiner reexamine and reconsider the claims in view of the above noted reasons. Allowance of the application is respectfully requested.

In the event, that there are any remaining unresolved issues precluding the issuance of the present application after consideration of the present response, before issuing a further rejection, the Examiner is respectfully requested to contact the applicants' agent at the below listed number to discuss the same.

Respectfully submitted,

BY: Lawrence J. Chapa
Lawrence J. Chapa
Reg. No. 39,135
Phone (847) 523-0340
Fax. No. (847) 523-2350

Motorola, Inc.
Mobile Devices
Intellectual Property Department
600 North US Highway 45, RM AS437
Libertyville, IL 60048